

**EXHIBIT 29**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3

4 INTERNATIONAL CHURCH OF THE  
5 FOURSQUARE GOSPEL,

6

Plaintiff,

7

vs.

No. C 07-03605 PJH

8

CITY OF SAN LEANDRO, et al.,

9

Defendants,

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FAITH FELLOWSHIP FOURSQUARE  
CHURCH,

12

Real Party in Interest.

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DEPOSITION OF LUKE SIMS

17

18

DATE: MAY 19, 2008

19

20

TIME: 10:50 A.M.

21

22

LOCATION: MEYERS NAVE RIBACK SILVER & WILSON  
555 13th Street  
Suite 150  
Oakland, California 94607

23

24

Reported By: Jane H. Stuller  
Certified Shorthand Reporter  
License Number 7223, RPR

25

Page 1

1 APPEARANCES

2

3 For the Plaintiff:

4 LAW OFFICE OF PETER MacDONALD  
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11 and

12 PACIFIC JUSTICE INSTITUTE  
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20 For Defendant CITY OF SAN LEANDRO:

21

22 MEYERS NEVES RIBACK SILVER & WILSON  
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25 Suite 1678  
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1 accommodate the flow of people in and out of a church.  
2 There was also a concern about the loss of this office  
3 building as a resource for economic development and  
4 jobs. And that's all I can recall.

5 BY MR. MacDONALD:

6 Q. Does the loss of a particular building -- one  
7 building in a city of San Leandro's size have an impact  
8 on the overall economic viability of a city?

9 MS. FOX: Objection; irrelevant, vague and  
10 ambiguous as to "one building."

11 THE WITNESS: I can say this: A unique  
12 building would potentially have that impact, yes.

13 BY MR. MacDONALD:

14 Q. And you consider this to be a unique building?

15 A. This building is unique in San Leandro, yes.

16 Q. How would you describe the building in terms of  
17 what type of building it is and what is it that makes it  
18 unique?

19 A. It is a clean modern, one-level office building  
20 that is very attractive and very conducive to certain  
21 users that would like to be in an industrial area with  
22 both office and research and development and a loading  
23 dock, which this building has; and there are just  
24 literally maybe three or four buildings in all of San  
25 Leandro that have those characteristics.

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1 Q. In your role as economic development director,  
2 are you aware of -- kind of the range at which vacant  
3 industrial land sells for in San Leandro?

4 A. Generally, yes.

5 Q. Generally, what would that range be?

6 A. Well, it would depend a great deal on the  
7 characteristics of the site. The value of real estate  
8 -- particularly industrial real estate in San Leandro  
9 varies quite widely.

10 Q. So if there weren't a building on this site,  
11 what would the approximate range of the value be on the  
12 Catalina site?

13 MS. FOX: Objection; vague as to time.

14 MR. MacDONALD: The time would be 2006..

15 MS. FOX: January 1st, 2006?

16 MR. MacDONALD: Actually --

17 MS. FOX: Mr. Sims --

18 MR. MacDONALD: Actually, May 18th, 2006.

19 MS. FOX: Counsel, we need to take another  
20 break.

21 (Recess.)

22 BY MR. MacDONALD:

23 Q. You mentioned that there were three or four  
24 other office buildings of the kind of quality equal or  
25 similar to the building at Catalina Court that were

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1 available for potential employers.

2 What are those buildings that you're aware of?

3 A. Well, just to clarify. Not that they were  
4 available for potential employers. I meant to say  
5 earlier that there were three or four buildings that I  
6 can think of, period, that would be of similar nature to  
7 this. And those would be a -- there's a building at 27  
8 or 2500 Merced Street, which is a business-park type of  
9 building, heavy office. There is a building at 2040  
10 Williams Street, again, mixed with a heavy office; and  
11 then a large building at 1717 Doolittle Drive, which is  
12 very heavy office, but also large manufacturing space as  
13 well.

14 I will say that this particular building where  
15 it's 40-plus thousand square feet of -- of single-floor  
16 office with very little manufacturing associated with  
17 it, is -- I cannot actually think of another building  
18 quite exactly like that building --

19 Q. Okay.

20 A. -- anywhere in San Leandro.

21 Q. Would it surprise you if I told you I talked to  
22 the MDL personnel director, and she told me that they  
23 relocated from San Leandro to San Ramon because they did  
24 not want to be in an industrial district?

25 A. Yes.

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1 "I would have to say no."

2 "Question: Would \$200 per square.  
3 foot sound like numbers -- a number  
4 that's close to what your estimate would  
5 be?")

6 THE WITNESS: I don't know.

7 BY MR. MacDONALD:

8 Q. If someone told you it was \$200 per square  
9 feet, would that surprise you or would you think it was  
10 higher or lower?

11 MS. FOX: Objection; lacks foundation.

12 MR. MacDONALD: \$200 per square foot for  
13 construction of the kind of office building that is  
14 located at Catalina Court.

15 THE WITNESS: That would strike me as being  
16 high.

17 BY MR. MacDONALD:

18 Q. Okay. San Leandro puts a fair amount of  
19 emphasis on economic development; is that correct?

20 A. Yes.

21 Q. Why is that?

22 A. I think it's because of a tradition that goes  
23 back several decades where we had our roots after the  
24 turn of the century as an industrial center serving a  
25 largely agricultural economy, and then up through the

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1 post-World War II era where California's population  
2 rapidly expanded and the city became a large  
3 manufacturing center to serve that growing population;  
4 and that tradition continues on through today where I  
5 think the community felt very proud of that heritage of  
6 manufacturing and employment and its status as a major  
7 manufacturing employment center, and that it felt that  
8 that was an important public policy goal to maintain  
9 that employment base and the jobs and the industrial  
10 activity that's associated with it.

11 Q. Since you took over as economic development  
12 director in 1998, how has -- how has San Leandro  
13 performed in terms of metrics that you're aware of,  
14 numbers of jobs, tax base and those kinds of things?

15 A. Generally speaking, because obviously I can't  
16 recall specific statistics, in terms of employment, I  
17 think it's generally the case that it has been stabled I  
18 would say over that ten-year period to maybe slight --  
19 slight increase perhaps, but generally stable.

20 In terms of -- of occupancy of industrial  
21 buildings, it has -- occupancy has increased rather  
22 dramatically from a vacancy rate close to 20 percent in  
23 the early 1990s to what we have today of generally  
24 between -- it varies quarter to quarter, but generally  
25 between 3 and 5 percent. So the level of activity as

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**Golden Gate Reporting**

## 1       A C K N O W L E D G E M E N T   O F   D E P O N E N T

2

3           I, LUKE SIMS, do hereby acknowledge I have read and  
4   examined the foregoing pages of testimony, and the same  
5   is a true, correct and complete transcription of the  
6   testimony given by me, and any changes or corrections,  
7   if any, appear in the attached errata sheet signed by  
8   me.

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06/24/2008

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Date

  
LUKE SIMS

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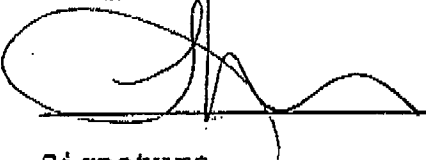
**Golden Gate Reporting**

1 Golden Gate Reporting  
 2 35 Mitchell Boulevard, Suite 8  
 3 San Rafael, California 94903  
 4 (415) 499-DEPO (3376)

**E R R A T A S H E E T**

5 Case Name: INTERNATIONAL CHURCH OF THE FOURSQUARE  
 6 GOSPEL VS. City OF SAN LEANDRO, et al.  
 7 Witness Name: LUKE SIMS  
 8 DEPOSITION DATE: MAY 19, 2008

	Page No.	Line No.	Change
8	4	22	"Pox" to "Fox"
9	5	19	Capitalize "Business Development Committee" throughout document
10	10	2-3	"in master of" to "a master of arts in"
11	10	13	"portable" to "affordable"
12	10	22	"1991" to "1998"
13	12	5	"That's specific area." To "That specific area?"
14	12	15	"they're" to "they were"
15	13	21	"a" to "in"
16	15	25	"Holm" to "Hom"
17	16	1	"Matora" to "Mortara"
18	27	18	"concerned" to "concern"
19	35	17	"stabled" to "stable"
20	41	11	"Mia Lorenz" to "Amalia Lorentz"

21   
 22 \_\_\_\_\_  
 23 Signature

06/24/2008

Date

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**EXHIBIT 30**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE  
FOURSQUARE GOSPEL,

CERTIFIED  
COPY

Plaintiff,

vs.

No. C07-03605

CITY OF SAN LEANDRO, a municipal  
corporation, DOES 1-50,

Defendants.

/

DEPOSITION OF GARY MORTARA

VOLUME I

(PAGES 1 - 148)

Taken before LORI A. YOCK, CSR, RPR

Certified Shorthand Reporter No. 5801

Registered Professional Reporter No. 018667

State of California

Tuesday, May 20, 2008

EMERICK & FINCH (925) 831-9029

Page 1

1 MR. SNIDER: I should have been a smoker, but I  
2 never bothered taking it up.

3 MS. FOX: No, no, no, you shouldn't have.

4 That Oakland Foursquare facility, was that  
5 located in what some would term a strip commercial  
6 building?

7 A. No.

8 Q. Would it be accurate to describe it as a  
9 storefront church?

10 A. Some might. I wouldn't.

11 Q. Was it in a standalone building?

12 A. Uh-huh.

13 Q. That's a "yes"?

14 A. Yes. I'll get it.

15 Q. We'll give you a little more coffee and then your  
16 verbal responses will improve, I'm sure.

17 A. I'll get it.

18 Q. The first time is always difficult.

19 How big was the building?

20 A. Square footage?

21 Q. Yes.

22 A. It was small. Gosh, I'm going to guess 2 to  
23 3,000 square feet.

24 Q. And how many members did you have in July -- in  
25 or about July 1993?

1 A. About 65.

2 Q. And how many services were you having on Sundays?

3 A. One.

4 Q. Is your wife also a pastor?

5 A. She is a nurse.

6 Q. And what is her name, please?

7 A. Tisha, T-I-S-H-A, Mortara.

8 Q. All right. The first church was Oakland

9 Foursquare. Was the second church Faith Fellowship?

10 A. Yes.

11 Q. And when did you move to Faith Fellowship?

12 A. September of 1993.

13 Q. And you have been there ever since?

14 A. Yep -- yes.

15 Q. Was there any break in your tenure? By that I  
16 mean did you take a year sabbatical? Did you go someplace  
17 else and regain your demonstrative good life for a period  
18 of time?

19 A. No.

20 Q. In September 1993, where was the location of  
21 Faith Fellowship?

22 A. 577 Manor Boulevard, San Leandro, California.

23 Q. Why did you move to Faith Fellowship?

24 A. The previous pastor resigned in August of '93  
25 because the constituency had dropped down to about -- I

1 keeping with your then average weekly attendance or were  
2 you hoping to and planning for accommodating growth?

3 A. I think we knew that we would continue to grow  
4 to some degree, yes.

5 Q. Do you have a figure -- a best estimate you can  
6 give me, Pastor Gary, of your average weekly attendance  
7 today?

8 A. It fluctuates between 1,300 and 1,550 in  
9 attendance.

10 Q. All right. And do you have any projections for  
11 what type of growth you hope to obtain in the next two to  
12 three years?

13 A. At this building or at Catalina?

14 Q. At this building.

15 A. We can't grow much beyond 1,700 people at this  
16 site.

17 Q. And what is your hope for the growth numbers at  
18 the Catalina site?

19 A. We want to reach as many people for Jesus  
20 Christ as we possibly can.

21 Q. Do you have an estimated figure that you had in  
22 mind for the Catalina site?

23 A. 3 to 5,000.

24 Q. Weekly attendance?

25 A. Uh-huh.

1 A. Well, you have to remember that there wasn't a  
2 church built in San Leandro for over 17 years until they  
3 built Faith Fellowship the original site. So there was  
4 no real awareness of what the rules were for churches.

5 Q. My question is was there a person at Faith  
6 Fellowship who was supposed to become aware of what the  
7 rules were so you all could know the rules of the game?

8 A. That's why I personally went to the meeting  
9 with Sam Millicek and somebody else to find out: Okay.  
10 We found a building. How can we make this a usable site  
11 for assembly? It fits all our criteria.

12 Q. So were you the person who was going to figure  
13 out the rules of the zoning and how one would move  
14 forward?

15 A. No. I was going to ask.

16 Q. So you were looking to the city folks to give you  
17 that direction?

18 A. Uh-huh.

19 Q. That's a "yes"?

20 A. Yes.

21 MS. FOX: I'm sorry. I am going to have to  
22 take a break.

23 (A recess was taken from 11:23 a.m.  
24 to 11:30 a.m.)

25 BY MS. FOX:



1 Q. Pastor Gary, do you ever recall Ed Bullok telling  
2 you that John Jermanis cautioned that Faith Fellowship  
3 should not go buy that site?

4 A. He may have.

5 Q. Do you recall that?

6 A. Vaguely.

7 Q. Do you recall that you were advised by Ed Bullok  
8 or anyone else that John Jermanis cautioned you shouldn't  
9 go hard, so to speak, with dollars that become  
10 nonrefundable on that site?

11 A. I don't remember that.

12 Q. When Ed Bullok would report to you on what  
13 happened with this meeting with John Jermanis, did he do  
14 that in writing? Did he do that by email or did he do  
15 that verbally or all of the above?

16 A. I remember verbally. I don't remember anything  
17 officially in a document.

18 Q. During the course of this transaction, did you  
19 communicate via email with Ed Bullok?

20 A. I may have.

21 Q. Did you ever make any effort to check your email  
22 accounts for production of any documents in connection  
23 with this litigation?

24 A. I checked my emails all the time so --

25 Q. So opposed to just checking your emails, which at

1           their statements."

2       BY MS. FOX:

3           Q.   So Pastor Gary, can you answer that for me? What  
4       was the conversation and who was it with about those  
5       issues?

6           A.   Again, the way it was worded was "asked." I  
7       don't remember asking them if they thought I should put  
8       deposit money down. I think it was a conversation that  
9       they brought up and my response to them was: We just  
10      need to be heard. You told us to file an application  
11      but nobody is hearing our case, and, you know, we were  
12      in negotiations on this building.

13          Q.   I understand that you were having conversations  
14      with the City staff where you were telling them: We need  
15      to get this process moving; correct?

16          A.   Uh-huh -- yes.

17          Q.   But at any time, did you have conversations with  
18      the staff where you told them that you had monies that you  
19      were now going to have to make nonrefundable in this  
20      transaction?

21          A.   Yes, I'm sure we did.

22          Q.   All right. Who do you recall telling that to?

23          A.   I would guess that it was Debbie Pollart  
24      because she was the point person, but I don't remember.

25          Q.   And is it your recollection that Ms. Pollart at

1 any time assured you that your transaction would have  
2 smooth sailing and you shouldn't worry about your  
3 nonrefundable deposits?

4 A. No. She didn't say that.

5 Q. Did you ever purchase a single-family residence  
6 at the Manor site?

7 A. Yes.

8 Q. And where was that located?

9 A. Directly next door to the church.

10 Q. And was that purchased for parking?

11 A. Parking.

12 Q. And when did that occur --

13 A. I don't --

14 Q. -- that purchase?

15 A. I don't have the date on that.

16 Q. I know we have been at it for a fair amount of  
17 time this morning, Pastor Gary, but even though you have  
18 been very diligent, I am happy to take a break if you want  
19 to take an early lunch. I am entitled to your best  
20 recollection. So this is my day to ask questions.

21 A. Okay.

22 Q. So if you can take a moment to reflect. We know  
23 when you bought the hardware store. You've told us the  
24 dates of the new facility opening. Can you help me,  
25 please, place when the purchase of that single-family home

1 occurred.

2 A. I am going to have to guess. 2005.

3 Q. And how large was the piece of property upon  
4 which the single-family home sat?

5 A. I do not know.

6 Q. Originally we were talking about the fact that  
7 you had originally had a one-acre site. You added a 1.4  
8 acre site to it for a total of 2.4.

9 As we sit here today, what is the total acreage  
10 of the Manor property?

11 A. 2.4. And then there is a house next door  
12 that's not contiguous because there is a street --  
13 cul-de-sac there.

14 Q. And is that now paved over for parking?

15 A. What paved over?

16 Q. Sorry. The single-family home that was purchased  
17 at or about 2005. Was that home then demolished?

18 A. No. Still sitting there.

19 Q. All right. What is being used at that location?

20 A. We park in the driveway, on the street, on the  
21 front lawn, and on the cul-de-sac. We purchased the  
22 house strictly so a neighbor wouldn't tie us up and take  
23 more parking from us.

24 Q. All right. And did you make any use of the  
25 interior of the house itself?

1 A. Yes.

2 Q. And do you know whose handwriting that is that  
3 says: This offer is further subject --

4 A. It's pretty good writing so it's not mine.

5 Q. And I can stipulate it's not James Lee's.

6 A. Yeah, I'm not sure who wrote that.

7 Q. How about condition F?

8 A. This agreement is specifically conditioned upon  
9 buyer, in buyer's sole judgment, determining that the  
10 subject real property is suitable for and approved for  
11 use as a church. This condition shall remain in full  
12 force and effect until removed in writing by buyer.  
13 What about it?

14 Q. Do you know who drafted that condition?

15 A. I'm assuming -- it would be an assumption -- Ed  
16 Bullok, if this is his document.

17 Q. Do you recall discussing this offer with Ed  
18 Bullok before it was submitted?

19 A. Yes.

20 Q. And did Ed Bullok advise you that it is prudent  
21 practice in a land use transaction to make sure you have  
22 land use entitlement approved before you move forward with  
23 a large purchase?

24 A. Something to that effect.

25 Q. Do you recall whether or not this condition, 36F,

1 A. We did.

2 MS. FOX: All right. Counsel, we have come to  
3 the bewitching hour for me. I need to terminate our  
4 deposition to be reset to finish up. I appreciate you  
5 coming early today. It ends up that my son is receiving  
6 an award tonight so I need to be there. So I appreciate  
7 your accommodation of that. And so we need to conclude.

8 There are some documents perhaps we can have  
9 before day two. I suggest we confer by email for a  
10 convenient time for day two that meets everybody's  
11 schedule.

12 MR. SNIDER: Okay.

13 THE REPORTER: Counsel, to confirm, you are  
14 ordering a copy with a disk?

15 MR. SNIDER: Yes.

16 THE REPORTER: A condensed also?

17 MR. SNIDER: Yes.

18 THE REPORTER: Thank you.

19 (The deposition was adjourned at 2:49 p.m.)  
20  
21

22 \_\_\_\_\_  
GARY MORTARA  
23  
24  
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CERTIFICATE OF REPORTER

I, LORI A. YOCK, CSR No. 5801, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That said deposition was taken before me at the time and place set forth and was taken down by me in shorthand and thereafter reduced to computerized transcription under my direction and supervision, and I hereby certify the foregoing deposition is a full, true and correct transcript of my shorthand notes so taken.

And I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 1st day of June, 2008.



LORI A. YOCK  
CSR No. 5801

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE  
FOURSQUARE GOSPEL,

**CERTIFIED  
COPY**

Plaintiff,

vs.

No. C07-03605

CITY OF SAN LEANDRO, a municipal  
corporation, DOES 1-50,

Defendants.

/

DEPOSITION OF GARY MORTARA

VOLUME II

(PAGES 149 - 214)

Taken before LORI A. YOCK, CSR, RPR

Certified Shorthand Reporter No. 5801

Registered Professional Reporter No. 018667

State of California

Friday, June 6, 2008

EMERICK & FINCH (925) 831-9029



1 research and find it.

2 Q. Did you talk to Jim Lee about whether or not he  
3 remembered if condition 36F, the typewritten condition,  
4 had, in fact, been deleted from the transaction?

5 A. I may have.

6 Q. And do you recall what he said?

7 A. He didn't know what happened to it.

8 Q. When you all proposed the new sanctuary back in  
9 2003 that opened in Easter 2003, do you recall who the  
10 planning person was that you primarily dealt with in that  
11 regard with the City?

12 A. I don't, but John Jermanis said he was there at  
13 that time and he was part of the approval process.

14 Q. Do you recall whether or not the City discouraged  
15 you in any fashion from moving forward with that new  
16 sanctuary?

17 A. My initial plan of a 1,200 seat auditorium they  
18 shot down. When I came back with this auditorium, they  
19 immediately approved it.

20 Q. Do you recall why the 1,200 person auditorium was  
21 shot down, as you described it?

22 A. Two reasons. One was parking. The  
23 neighborhood couldn't accommodate the parking. Two,  
24 where I envisioned the sanctuary sitting would have been  
25 up against the houses, and the neighbors weren't in

1 favor of that.

2 Q. Ultimately did you think you got fair treatment  
3 in the approval of your CUP in 2003 by the City?

4 A. Yes, my second request for this particular  
5 building. We downsized the square footage of the  
6 sanctuary so we wouldn't need as many parking places,  
7 and we moved the building towards the freeway instead of  
8 the houses. So they were very accommodating of that.

9 Q. Now, we talked a little bit last time about the  
10 numbers of folks that attend services. Those gold sheets  
11 -- in your mind, do those gold sheets represent membership  
12 numbers or is that a separate issue or separate records  
13 that are kept in that regard?

14 A. Separate.

15 Q. All right. And how are the membership figures  
16 kept? Are they on a particular document?

17 A. I believe so. My secretary keeps all of that.  
18 We don't make a real big push for church membership.

19 Q. Is there a particular requirement of what you  
20 have to do to be a member of Faith Fellowship?

21 A. Yes.

22 Q. And what is that?

23 A. You have to be nine years old. You have to be  
24 a born-again believer in the Lord Jesus Christ and  
25 preferably baptized in water.

1 play here?

2 A. Yeah. We believe the City is violating the  
3 law.

4 MS. FOX: All right. I have no further  
5 questions.

6 THE REPORTER: Counsel, are you ordering a  
7 copy?

8 MR. SNIDER: Yes.

9 THE REPORTER: Thank you.

10 (The deposition was concluded at 12:10 p.m.)

11

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GARY MORTARA

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CERTIFICATE OF REPORTER

I, LORI A. YOCK, CSR No. 5801, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That said deposition was taken before me at the time and place set forth and was taken down by me in shorthand and thereafter reduced to computerized transcription under my direction and supervision, and I hereby certify the foregoing deposition is a full, true and correct transcript of my shorthand notes so taken.

And I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18th day of June, 2008.



LORI A. YOCK  
CSR No. 5801

Intentionally  
Omitted

**EXHIBIT 31**